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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,009	05/09/2006	Xiaobao Chen	DYC-00400	5750

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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

EXAMINER

AFSHAR, KAMRAN

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,009

Applicant(s)

CHEN ET AL.

Examiner

Kamran Afshar 571-272-7796

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-17, & 20-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 13, 14, 17 and 20-35 is/are allowed.
- 6) ☒ Claim(s) 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-10, 13-17, and 20-33) in the reply filed on 11/23/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "data processor" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In accordance with the claimed language of claim 15, the claimed invention is

directed to description or expression of "a computer program providing computer executable instructions", which are not physical things. They are neither computer components nor statutory processes. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionally to be realized. In contrast, a claimed computer readable medium encoded with a computer program, i.e. instruction, is a computer element, which defines structural and functional interrelationships between computer program and the rest of computer, which permits the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Claim 16 is rejected as it is directly and or indirectly depended on rejected claim(s).

4. Claims 15-16 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a "a computer program providing computer executable instructions" asserted utility or a well established utility. The claim(s) contains subject matter "a computer program providing computer executable instructions", which was not described in the specification in such a way as to reasonably convey to one skilled in the art.

Claims 15-16 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a "a computer program providing computer executable instructions" asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Allowable Subject Matter

5. Claims 1-10, 13-14, 17, 20-35 are allowed.

The following is an examiner's statement of reasons for allowance: 1-10, 13-14, 17, 20-35.

With respect to claim 1, Lee (U.S. Pub. No.: 2003/0021256 A1) is the closest prior art to the application invention which discloses a telecommunications system for providing a facility for

communicating internet packets to and/or from a mobile user equipment, the system comprising a packet radio network which includes a gateway support node, a serving support node and a radio network controller (See Lee e.g. telecommunication network as depicted in Fig. 1, gateway support node (or GGSNs) 118a-118b, serving support node (or SGSNs 112a-112b, radio network controller, RNCs 102, mobile station 100 (or mobile user equipment) of Fig. 1).

Zhu (U.S. Reg. No.: H2051 H) discloses system and method for providing multiple quality service classes (See Zhu e.g. Co. 2, Lines 35-40).

However, the prior art of record fails to disclose singly or in combination or render obvious that the context application request data representing a request for the virtual communications channel for communicating the internet packets containing the different types of data, the context application request data specifying a main set of quality of service parameters and including at least one other data field representing a request for a different set of quality of service parameters, each set of quality of service parameters being provided for one of the different types of data in the internet packet, the virtual communications channel including a bearer for communicating the internet packets between the gateway support node and the serving support node and a plurality of radio access bearers, each of the radio access bearers being provided for one of the different types of payload data of the internet packets, each radio access bearer providing one of the main and other set of quality of service parameters for the different data types specified by the context application request data.

With respect to claim 6, the prior art of record fails to disclose singly or in combination or render obvious that the context application request data including a data field specifying a main set of quality of service parameters and including at least one other data field representing a request for a different set of quality of service parameters, each of the sets of quality of service parameters being provided for one of the different types of data in the internet packets, and establishing the virtual communications channel between the gateway support node and the mobile user equipment in response to the context application request data for communicating the internet packet data, including establishing a plurality of radio access bearers in accordance with each of the sets of the quality of

service parameters, each radio access bearer being provided for communicating one of the plurality of different types of payload data of internet data packets.

With respect to claim 13, the prior art of record fails to disclose singly or in combination or render obvious that the radio link control layer providing the radio resources controlled by the radio resource layer, wherein the radio resource layer is responsive to a radio access request data using a radio access network application protocol layer to control the radio link control layer to establish using the medium access control layer a main radio access bearer for one of the different types of data in accordance with a main set of quality of service parameters, and to establish a radio access bearer for each of the different data types as a sub-flow within the main radio access bearer in the medium access control layer.

With respect to claim 14, the prior art of record fails to disclose singly or in combination or render obvious that the context request data representing a request for a virtual communications channel for communicating the internet data packets containing the different types of data, where the request data includes a data field specifying a main set of quality of service parameters and at least one other data field representing a request for at least one other radio access bearer providing a different quality of service parameters, each of the radio access bearers being provided for one of the different types of data in the payload of the internet packets.

With respect to claim 17, the prior art of record fails to disclose singly or in combination or render obvious that the context application request data representing a request for a virtual communications channel for communicating the data packets containing the different types of data, the context application request data including a data field specifying a main set of quality of service parameters and at least one other data field representing a request for a different set of quality of service parameters, each of the sets of quality of service parameters being provided for one of the different types of data in the data packet, and means for establishing the virtual communications channel between the gateway support node and the mobile user equipment in response to the context

application request data, including establishing a radio access bearer in accordance with each of the sets of quality of service parameters for communicating the different data types.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a) Chen (U.S. Pub. No.: 2006/0274706 A1).
 - b) Amirjoo (U.S. Pub. No.: 2001/0041575 A1).
 - c) Tamura (U.S. 7,181,209 B2).

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, **Eng, George** can be reached @ (571) 272-3984. The fax number for the organization where this application or proceeding is assigned is **571-273-8300** for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamran Afshar